IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 198 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KISHANLAL UDAJI BISHNOI

Versus

STATE OF GUJARAT

Appearance:

MR YV BRAHMBHATT for Petitioner

MR RC KODEKAR, APP for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/04/2001

ORAL JUDGEMENT

#. Rule. Shri R.C.Kodekar waives service of Rule on behalf of respondent. Heard the learned counsel for the parties.

#. In the matter of release of Muddamal - Marshall Jeep

bearing Registration No.RJ-16-C-1619, this special criminal application has been filed in this court by petitioner in which prayer has been made for quashing of the order of the Addl. Sessions Judge, Ahmedabad (Rural), at Gandhinagar in Criminal Revision Application No.15/2001 under which the revisional court has confirmed the order of the trial court.

#. In paragraph-7 of the judgment, the learned Addl. Sessions Judge has recorded the findings the translation of which read as under:

7. Moreover, the muddamal jeep is also involved in previous offence registered at - Gandhinagar Sector-7 Police Station in Prohibition C.R. No.9 of 1999 under Section 6(1)(b), 65(A)(E) and 16(B) of the Prohibition Act and the application was submitted for the said muddamal jeep and that application was rejected at that time and thereafter against that order a Revision Application was filed and which was allowed with certain conditions and muddamal jeep was handed over.....

#. The learned counsel for the respondents does not dispute that the vehicle involved in the previous offence registered at Gandhinagar Sector-7 Police Station in Prohibition C.R. No.9/99 was a different vehicle than this vehicle in question. However, it is submitted that otherwise also, on merits, after excluding this finding of the Addl. Sessions Judge, the petitioner has no case.

#. The learned counsel for the respondents may be correct and there may be all the possibility that the Addl. Sessions Judge, even after excluding this finding may have confirmed the order of the Judicial Magistrate, but after going through the judgment of the learned Addl. Sessions Judge, I am of the opinion that this fact have strongly prevailed with him in passing of the impugned order.

#. In the result this special criminal application succeeds and the same is allowed and the order dated 14.3.2001 of the Addl. Sessions Judge, Ahmedabad (Rural) at Gandhinagar, in Criminal Revision Application No.15/2001 is quashed and set aside and the learned Addl. Sessions Judge is directed to restore the Criminal Revision Application no.15/2001 to its original number and decide the same in accordance with law. Rule is made absolute in aforesaid terms with no order as to costs.

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(sunil)